



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.6.2006  
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**COMMISSION STAFF WORKING DOCUMENT**

**Annex to the**

**COMMUNICATION DE LA COMMISSION AU CONSEIL ET AU PARLEMENT  
EUROPÉEN**

**Renforcer la liberté, la sécurité et la justice dans l'Union européenne :  
Rapport sur la mise en œuvre du programme de La Haye pour l'année 2005**

**{COM(2006) 333 final}**

**2005 implementation scoreboard – Table 2**

**FOLLOW-UP OF IMPLEMENTATION OF LEGAL INSTRUMENTS  
IN THE FIELDS OF JUSTICE, FREEDOM AND SECURITY AT NATIONAL LEVEL**

**2005 IMPLEMENTATION SCOREBOARD – TABLE 2**

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>   |   |
|--|--|---|--|---|
|  |  |   | Communication of national measures to the Commission                             | Compliance/application  |
| <b>1. GENERAL ORIENTATIONS<sup>4</sup></b>   |  |   |  |   |
| <b>1.2. Respect for and active promotion of fundamental rights</b>   |  |   |  |   |
| <b>– Protection of personal data</b>   |  |   |  |   |
| Council Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals | <b>24 October 1998</b>                       | Report from the Commission on the implementation of the Directive of 15.5.2003 <sup>6</sup> and | All Member States have adopted and communicated legislation under the Directive. | Non-compliance with and incorrect application of different provisions have been identified. |

<sup>1</sup> Taking into account only the instruments for which the deadlines for implementation or for entry into force had passed by the date of adoption of this Communication.

<sup>2</sup> Excluding correspondence, complaints and petitions to the European Parliament and to the Commission.

<sup>3</sup> At the cut-off date of 31 March 2006.

<sup>4</sup> This table uses the same classification/titles as provided for under the Hague Action Plan.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>  |   |
|---|--|--|---|---|
|   |  |  | Communication of national measures to the Commission  | Compliance/application  |
| with regard to the processing of personal data and on the free movement of such data <sup>5</sup> |  | <p>report prepared on behalf of the Commission on the economic evaluation of the Directive dated May 2005<sup>7</sup>.</p> <p>An in-depth analysis is being carried out. A final evaluation will be made at a later stage.</p> |   |   |
| <b>1.4. European strategy on drugs</b>  |  |  |   |   |
| The Drugs Action Plan (2000-2004) and the EU Drugs Strategy 2000-2004                             | <b>2004</b>                                  | Final evaluation of the EU Drugs Strategy and Action Plan (2000-2004) <sup>8</sup> .   | Not applicable: there is no formal obligation to notify the Commission under the Action Plan <sup>9</sup> | On the one hand the final evaluation shows that progress has been made towards achieving the objectives of the EU Drugs Strategy 2000-2004. A large number of the |

<sup>5</sup> OJ L 281, 23.11.1995, p. 31.

<sup>6</sup> First report on the implementation of the Data Protection Directive 95/46/EC - COM(2003) 265.

<sup>7</sup> [http://europa.eu.int/comm/justice\\_home/fsj/privacy/studies/index\\_en.htm](http://europa.eu.int/comm/justice_home/fsj/privacy/studies/index_en.htm).

<sup>8</sup> COM(2004) 707.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |  |
|---|--|---|---|--|
|   |  |   | Communication of national measures to the Commission  | Compliance/application   |
|   |  |   |   | measures proposed in the Action Plan have been or are now being carried out. On the other hand, the available data do not confirm achievement of two of the objectives of the Drugs Strategy, i.e. a considerable decrease in drug use and a substantial reduction in the availability of drugs. |
| The Drugs Action Plan (2005-2008) and the EU Drugs Strategy 2005-2012 | <b>2008</b>                                  | Commission annual progress review on implementation of the Action Plan by all stakeholders (Member States, Commission, OEDT, Europol). The first progress review will be presented in autumn 2006.<br><br>Final evaluation is | Not applicable: there is no formal communication obligation to the Commission under the Action Plan <sup>10</sup> . | Not known: awaiting the Commission's progress review due in autumn 2006.   |

<sup>9</sup> Although, with a view to establishing the 2004 final evaluation, Member States regularly communicated information to the EMCDDA, to Europol and to the European Commission.

<sup>10</sup> Nevertheless, Member States should regularly communicate information to the EMCDDA and to Europol.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |   |
|---|--|---|---|---|
|   |  |   | Communication of national measures to the Commission  | Compliance/application  |
|   |  | due in 2008.  |   |   |
| Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking <sup>11</sup> | <b>12 May 2006</b>                           | Report from the Commission due by 12 May 2009 under the Framework Decision.   | Slovakia has adopted and communicated national transposition measures.  | Not known: since the deadline for implementation had not yet expired at the time of drafting this table, no information can be given at this stage.   |
| Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk assessment and control of new psychoactive substances <sup>12</sup>  | <b>21 May 2005</b>                           | The EMCDDA and Europol must report annually to the European Parliament, the Council and the Commission on implementation of | Not applicable: there is no formal obligation to communicate to the Commission under the Decision <sup>13</sup> . | The March 2006 report from the EMCDDA and Europol analyses seven months of implementation and points out that in the next year of implementation new challenges are likely to emerge related to new types of substances and medicinal products. |

<sup>11</sup> OJ L 335, 11.11.2004, p. 8.

<sup>12</sup> OJ L 127, 20.5.2005, p. 32.

<sup>13</sup> Nevertheless, Member States should communicate information to the EMCDDA and to Europol when appropriate.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>                   |  |
|--|--|---|--|--|
|  |  |   | Communication of national measures to the Commission | Compliance/application   |
|  |  | <p>this Decision.</p> <p>This subject will also be covered by the annual progress reviews mentioned above.</p>  |  |  |
| <b>2. STRENGTHENING FREEDOM</b>  |  |   |  |  |
| <b>2.1. Citizenship of the Union</b>   |  |   |  |  |
| Article 22 of the EC Treaty: reports from the Commission to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of |  | <p>Four Commission reports on Citizenship of the Union, dated 20.12.1993<sup>14</sup>, 27.5.1997<sup>15</sup>, 7.9.2001<sup>16</sup> and 26.10.2004 (from</p> | Not applicable.                                      | The four Commission reports make the general point that on the whole the provisions of Part Two of the EC Treaty related to the rights of Union citizens are being applied correctly and without serious problems. |

<sup>14</sup> COM(1993) 702.

<sup>15</sup> COM(1997) 230.

<sup>16</sup> COM(2001) 506.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force   | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |  |
|--|--|---|---|--|
|  |  |   | Communication of national measures to the Commission  | Compliance/application   |
| the provisions of Part Two of the Treaty on “citizenship of the Union”   |  | 1.5.2001 to 30.4.2004) <sup>17</sup> .  |   |  |
| Directives 90/364 of 28 June 1990 <sup>18</sup> , 90/365 of 28 June 1990 <sup>19</sup> and 93/96 of 29 October 1993 <sup>20</sup> on the right of residence of inactive persons, pensioners and students | <b>Implementation due by:</b><br><br><b>30 June 1992,</b><br><br><b>3 June 1992 and 31 December 1993<sup>21</sup></b><br><br><b>respectively</b> | Two Commission reports were adopted on 17.3.1999 <sup>22</sup> (period 1992-1999) and 5.3.2003 <sup>23</sup> (period 1999-2002). A third and last report will be adopted by the Commission in spring 2006 (period | At the current stage, all Member States have adopted and notified legislation under the Directive <sup>24</sup> . | Application is basically satisfactory, as the declining number of complaints received by the Commission shows. Nevertheless, there are still individual cases of non-compliance or incorrect application.<br><br><b>Belgium</b> was ruled against by the Court for non-compliance with Directive 90/364 on 23 March 2006 (case C-408/03) and has not yet complied with the judgment. |

<sup>17</sup> COM(2004) 695.

<sup>18</sup> OJ L 180, 13.7.1990, p. 26.

<sup>19</sup> OJ L 180, 13.7.1990, p. 28.

<sup>20</sup> OJ L 317, 18.12.1993, p. 59.

<sup>21</sup> The three Directives will be repealed with effect from 30 April 2006 by Directive 2004/38/EC of 29 April 2004.

<sup>22</sup> Report from the Commission to the Council and the European Parliament on the implementation of Directives 90/364, 90/365 and 93/96 (right of residence): COM(1999) 127.

<sup>23</sup> Second Commission report to the Council and Parliament on the implementation of Directives 90/364, 90/365 and 93/96 (right of residence) - COM(2003) 101.

<sup>24</sup> Italy was ruled against on 20 May 2000 (case C-424/98) for non-communication of national measures but has fulfilled its communication obligation in the mean time.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>   |   |
|---|--|---|--|---|
|   |  |   | Communication of national measures to the Commission   | Compliance/application  |
|   |  | 2003-2006).<br><br>Additional information has been provided by the Euro-Jus advisers' network and by the Citizens Signpost Service. |  | <b>Spain</b> was ruled against on 14 April 2005 (case C-157/03) and has not yet complied with the judgment. The Commission sent Spain a letter of formal notice under Article 228 of the EC Treaty on 19 December 2005.   |
| Directive 64/221 of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health <sup>25</sup> ; Directive 72/194 of 18 May 1972 extending to workers exercising the right to | <b>Expired<sup>30</sup></b>                  | A Commission report on Directive 64/221 was adopted on 19 July 1999 <sup>31</sup> .   | Communication of measures transposing Directives 72/194, 73/148, 75/34, 75/35 and 64/221 is completed. | Application of these directives is basically satisfactory, as the declining number of complaints received by the Commission shows. Nevertheless, there are still individual cases of non-compliance or incorrect application.<br><br>The Commission decided to refer the <b>Netherlands</b> to the Court on 5 July 2005 for two cases of incorrect application in expulsion cases.<br><br><b>Germany</b> was brought before the Court for |

<sup>25</sup> OJ 56, 4.4.1964, p. 850, English special edition Series I Chapter 1963-1964, p. 117.



| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup> | Current state of play <sup>3</sup>                   |  |
|---|--|--|--|--|
|   |  |  | Communication of national measures to the Commission | Compliance/application   |
| remain in the territory of a Member State after having been employed in that State the scope of the Directive of 25 February 1964 <sup>26</sup> ; Directive 73/148 of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services <sup>27</sup> ; Directive 75/34 of 17 December 1974 concerning the right of nationals of a Member State to remain in the territory of another |  |  |  | <p>non-compliance with Directive 64/221 (case C-441/02).</p> <p><b>Spain</b> was ruled against by the Court for non-compliance with Directives 73/148 and 68/360 on 14 April 2005 (case C-157/03) and has not yet complied with the judgment.</p> <p><b>Spain</b> was ruled against by the Court for non-compliance with Directive 64/221 on 31 January 2006 (case C-503/03) and has not yet complied with the judgment.</p> <p><b>Belgium</b> was ruled against by the Court for non-compliance with Directive 73/88 on 23 March 2006 (case C-408/03) and has not yet complied with the judgment.</p> |

<sup>26</sup> OJ L 121, 26.5.1972, p. 32, English special edition Series I Chapter 1972(II), p. 474.

<sup>27</sup> OJ L 172, 28.6.1973, p. 14.

<sup>28</sup> OJ L 14, 20.1.1975, p. 10.

<sup>29</sup> OJ L 14, 20.1.1975, p. 14.

<sup>30</sup> The three Directives will be repealed with effect from 30 April 2006 by Directive 2004/38/EC of 29 April 2004.

<sup>31</sup> COM(1999) 372 final.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>                          | Current state of play <sup>3</sup>  |  |
|---|--|---|---|--|
|   |  |   | Communication of national measures to the Commission  | Compliance/application   |
| Member State after having pursued therein an activity in a self-employed capacity <sup>28</sup> ; Directive 75/35 of 17 December 1974 extending the scope of Directive 64/221 to include nationals of a Member State who exercise the right to remain in the territory of another Member State after having pursued therein an activity in a self-employed capacity <sup>29</sup> |  |   |   |  |
| Directive 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member  | <b>Implementation due by 30 April 2006</b>   | Report from the Commission expected on 30 April 2008 under the Directive. | Austria, Slovenia and Slovakia have adopted and communicated national transposing measures.<br><br><b>France, Germany, Spain, Finland and Lithuania</b> have adopted legislation which partially implements the Directive, but require additional | Not known: it is too early to review implementation of Directive 2004/38, as transposition at national level is not due before 30 April 2006 <sup>33</sup> . |

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>  |  |
|--|--|--|---|--|
|  |  |  | Communication of national measures to the Commission  | Compliance/application   |
| States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221, 68/360, 72/194, 73/148, 75/34, 75/35, 90/364, 90/365 and 93/96 <sup>32</sup>  |  |  | measures.<br><br><b>Belgium, Italy, Finland and Luxembourg</b> have informed the Commission that they will not meet the transposition deadline. |  |
| Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals <sup>34</sup> | <b>Implementation due by 1 February 1994</b> | Two Commission reports were adopted on 7 January 1998 <sup>35</sup> and on 18 December 2000 <sup>36</sup> . Another report from the Commission is expected in the 2nd quarter of 2006. | Communication of national measures is considered satisfactory.  | The Commission reports conclude that on the whole the Directive has been satisfactorily transposed by the EU-15 Member States but that citizens have made little use of their rights under the Directive; the Commission reports underline the need to improve information in this area.<br><br>Implementation by the 10 Member States that joined the EU in 2004 is currently being assessed by the Commission departments. |

<sup>32</sup> OJ L 158, 30.4.2004, p.77.

<sup>33</sup> However, meetings have already been held with Member States' experts, on 27 June 2005 and on 30 January 2006, on the state of play with the transposition measures.

<sup>34</sup> OJ L 329, 30.12.1993, p. 34.

<sup>35</sup> COM(1997) 731.

<sup>36</sup> COM(2000) 843.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force       | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |   |
|--|--|---|---|---|
|  |  |   | Communication of national measures to the Commission                      | Compliance/application  |
| Council Directive 94/80 of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals <sup>37</sup> | <b><i>Implementation due by 1 January 1996</i></b> | <p>A Commission report was adopted on 30 May 2002<sup>38</sup>, together with two reports, dated 22 November 1999 and 22 August 2005, on granting a derogation pursuant to Article 19(1) of the EC Treaty, presented under Article 12(4) of Directive 94/80<sup>39</sup>.</p> <p>A second Commission report is due in 2008.</p> | <p>Communication of national measures can be considered satisfactory.</p> | <p>Legal implementation can be considered satisfactory.</p> <p>Results in practice have not been so successful, since the proportion of non-national EU citizens entered on the electoral rolls is generally rather low in the 13 Member States covered by the report<sup>40</sup>.</p> |

<sup>37</sup> OJ L 368, 31.12.1994, p. 38. Directive amended by Council Directive 96/30 of 13 May 1996 following the accession of Austria, Finland and Sweden (OJ L 122, 22.5.1996, p. 14).

<sup>38</sup> COM(2002) 260.

<sup>39</sup> COM(1999) 597 and COM(2005) 382.

<sup>40</sup> Luxembourg and Belgium benefit from derogations permitted under the Directive.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force         | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |  |
|--|--|---|---|--|
|  |  |   | Communication of national measures to the Commission  | Compliance/application   |
| <b>2.2. Asylum, immigration, Frontiers</b>   |  |   |   |  |
| <b>2.3. Common European Asylum System</b>  |  |   |   |  |
| Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of the Dublin Convention <sup>41</sup> | <b><i>Entry into force: 15 December 2000</i></b>     | Annual Commission reports were adopted on 5 May 2004 <sup>42</sup> and 20 June 2005 <sup>43</sup> (next one is due in July 2006). | Not applicable.   | The Commission reports show very satisfactory results on the activities of EURODAC, although certain difficulties were detected on a case-by-case basis. |
| Council Directive 2001/55 of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a                              | <b><i>Implementation due by 31 December 2002</i></b> | A Commission report was due by 31 December 2004, but because of its specific nature this Directive has not been applied and no    | All Member States have communicated their implementing measures, with the exception of <b>Luxembourg, the United Kingdom, Estonia and Greece</b> .<br><br>Luxembourg was ruled against on 2 June 2005 (case C-454/04) and has not yet | <b>The United Kingdom</b> was ruled against on 23 February 2006 (case C-455/04) for non-compliance and has not yet complied with the judgment.           |

<sup>41</sup> OJ L 316, 15.12.2000, p. 1.

<sup>42</sup> SEC(2004) 557.

<sup>43</sup> SEC(2005) 839.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>   |   |
|--|--|--|--|---|
|  |  |  | Communication of national measures to the Commission   | Compliance/application  |
| balance of efforts between Member States in receiving such persons and bearing the consequences thereof <sup>44</sup>          |  | report has been drafted.   | <p>complied with the judgment.</p> <p>Greece was ruled against on 17 November 2005 (case C-476/04) and has not yet complied with the judgment.</p>   |   |
| Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers <sup>45</sup> | <b>Implementation due by 6 February 2005</b> | A report from the Commission is due by 6 August 2006 under the Directive (publication due in the 4th quarter of 2006). | <p>All the Member States have communicated their implementing measures, with the exception of <b>Germany, Greece and Portugal</b>.</p> <p><b>Belgium, Estonia, Austria and Luxembourg</b> have partially fulfilled their communication obligation.</p> <p>Germany informed the Commission that national legislation is due to be adopted in June 2006.</p> <p>The Commission brought Greece and Portugal before the Court (cases C-72/06</p> | At the cut-off date of 31 March 2006, no cases of non-compliance or incorrect application had been detected. Details will be given in the Commission report, due in 2006. |

<sup>44</sup> OJ L 212, 7.8.2001, p. 12.

<sup>45</sup> OJ L 31, 6.2.2003, p. 18.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>                   |   |
|--|--|--|--|---|
|  |  |  | Communication of national measures to the Commission | Compliance/application  |
|  |  |  | and C-75/06 respectively).                           |   |
| Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national <sup>46</sup> | <b>Entry into force: 17 March 2003</b>       | A report from the Commission is due by 17 March 2006 under the Directive (publication due in June 2006). | Not applicable.                                      | At the cut-off date of 31 March 2006, a single case of non-compliance or incorrect application was under examination (against Greece). Details will be given in the Commission report, due in 2006. |

#### 2.4. Legal Migration Including Admission Procedures

|   |   |   |   |   |
|---|---|---|---|---|
| Council Directive 2003/86 of 22 September 2003 on the right to family reunification <sup>47</sup> | <b>Implementation and communication due by 3 October 2005</b> | First report from the Commission due on 3 October 2007 under the Directive. | The Netherlands, the Czech Republic, Hungary, Slovenia, Spain, Austria and Poland have fully complied with their communication obligation.<br><br>Notifications by Slovakia, Latvia, France | At the cut-off date of 31 March 2006, no cases of non-compliance or incorrect application had been detected. Details will be given in the Commission report, due in 2007. |
|---|---|---|---|---|

<sup>46</sup> OJ L 50, 25.2.2003, p. 1.

<sup>47</sup> OJ L 251, 3.10.2003, p. 12.

<sup>48</sup> Denmark, Ireland and the United Kingdom are not bound by this Directive.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force               | Reports and other in-depth analysis <sup>2</sup>                       | Current state of play <sup>3</sup>   |   |
|---|--|--|--|---|
|   |  |  | Communication of national measures to the Commission   | Compliance/application  |
|   |  |  | <p>and Lithuania are currently being examined.</p> <p><b>Belgium, Germany and Estonia</b> have partially fulfilled their communication obligation.</p> <p><b>Greece, Italy, Luxembourg, Portugal, Finland, Sweden, Cyprus and Malta</b> have not yet fulfilled their obligation<sup>48</sup>.</p> <p>On 5 December 2005 the Commission sent letters of formal notice to those eight Member States that had not yet fulfilled their communication obligation.</p> |   |
| Council Directive 2003/109 of 25 November 2003 concerning the status of third-country nationals who are long-term residents <sup>49</sup> | <b>Implementation and communication by 23 January 2006</b> | Report from the Commission due by 23 January 2011 under the Directive. | <p>Austria, Poland, Slovenia and Slovakia have notified their implementing measures.</p> <p><b>Belgium and Lithuania</b> have partially fulfilled their obligation.</p>  | At the cut-off date of 31 March 2006, no cases of non-compliance or incorrect application had been detected. Details will be given in the Commission report, due in 2011. |

<sup>49</sup>

OJ L 16, 23.1.2004, p. 44.



| Legal instrument <sup>1</sup> | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup> | Current state of play <sup>3</sup>   |                        |
|-------------------------------|--|--|--|------------------------|
|                               |  |  | Communication of national measures to the Commission   | Compliance/application |
|                               |  |  | Germany, Greece, Spain, France, Italy, Luxembourg, Netherlands, Portugal, Finland, Sweden, Cyprus, Estonia, Hungary, Latvia, Malta and the Czech Republic <sup>50</sup> have not yet fulfilled their obligation. |                        |

## 2.6. Fight Against Illegal Immigration

|   |  |   |  |  |
|---|--|---|--|--|
| Council Directive 2001/40 of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals <sup>51</sup> | <b>Implementation and communication due by 2 December 2002</b> | No report provided for under the Directive. | All the EU-15 Member States <sup>52</sup> have communicated their implementing measures, with the exception of <b>Luxembourg</b> , which was ruled against on 8 September 2005 (case C-448/04) and has not yet complied with the judgment. | At the cut-off date of 31 March 2006, no cases of non-compliance or incorrect application had been detected. |
| Council Directive 2001/51 of 28 June 2001   | <b>Implementation and</b>                                      | No report provided for under the            | All the Member States have communicated their implementing   | At the cut-off date of 31 March 2006, no cases of non-compliance or incorrect                                |

<sup>50</sup> United Kingdom, Ireland and Denmark are not bound by this provision.

<sup>51</sup> OJ L 149, 2.6.2001, p. 34.

<sup>52</sup> Directive 2001/40/EC was not included in Annex I to the 2004 Act of Accession and the 10 “new” Member States are therefore not bound to transpose this Directive before the date when the Schengen *acquis* will fully apply to them.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force                          | Reports and other in-depth analysis <sup>2</sup> | Current state of play <sup>3</sup>  |  |
|--|---|--|---|--|
|  |   |  | Communication of national measures to the Commission  | Compliance/application   |
| supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 <sup>53</sup>     | <b><i>communication due by 11 February 2003</i></b>                   | Directive.                                       | measures, with the exception of <b>Luxembourg</b> , which was ruled against on 21 July 2005 by the Court of Justice (case C-449/04) and has not yet complied with the judgment.   | application had been detected.   |
| Council Directive 2002/90 of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence <sup>54</sup> | <b><i>Implementation and communication due by 5 December 2004</i></b> | No report provided for under the Directive.      | All the Member States have communicated their implementing measures, with the exception of <b>Luxembourg</b> , which has been brought before the Court by the Commission (case C-48/2006).<br><br><b>Germany</b> has partially fulfilled its communication obligation of communication and was sent a reasoned opinion on 13 July 2005. | At the cut-off date of 31 March 2006, no cases of non-compliance or incorrect application had been detected. |
| Council Directive 2003/110/EC of 25  | <b><i>Implementation and</i></b>                                      | No report provided for under the                 | Poland, Sweden, Finland, Austria, Netherlands, Slovenia, the Czech  | At the cut-off date of 31 March 2006, no cases of non-compliance or incorrect                                |

<sup>53</sup> OJ L 187, 10.7.2001, p. 45.

<sup>54</sup> OJ L 328, 5.12.2002, p. 17.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup> | Current state of play <sup>3</sup>  |                                |
|--|--|--|---|--------------------------------|
|  |  |  | Communication of national measures to the Commission  | Compliance/application         |
| November 2003 on assistance in cases of transit for the purposes of removal by air <sup>55</sup> | <i>communication due by 6 December 2005</i>  | Directive.                                       | <p>Republic, Estonia, Lithuania and Slovakia have communicated implementing measures.</p> <p><b>Belgium</b> has partially fulfilled its communication obligation.</p> <p><b>Germany, Greece, Spain, France, Italy, Luxembourg, Portugal, Cyprus, Hungary, Latvia and Malta</b> have not yet fulfilled their obligation<sup>56</sup>.</p> <p>On 9 February 2006 the Commission sent letters of formal notice to those Member States that had not or had not fully fulfilled their communication obligation<sup>57</sup>.</p> | application had been detected. |

<sup>55</sup> OJ L 321, 6.12.2003, p. 26.

<sup>56</sup> The United Kingdom, Ireland and Denmark are not bound by this provision.

<sup>57</sup> Letters were also sent to Lithuania and Estonia, which subsequently notified their national transposition measures.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force     | Reports and other in-depth analysis <sup>2</sup> | Current state of play <sup>3</sup>  |   |
|---|--|--|---|---|
|   |  |  | Communication of national measures to the Commission  | Compliance/application  |
| <b>3. STRENGTHENING SECURITY</b>  |  |  |   |   |
| <b>3.2. Terrorism<sup>58</sup></b>  |  |  |   |   |
| Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences <sup>59</sup>           | <b><i>Implementation due by 30 June 2006</i></b> | No report provided for under the Decision.       | Not applicable: there is no obligation to communicate national measures under the Decision.     | Not known: no data available (no reports, no infringement procedures possible). |
| <b>3.3. Prevention of and Fight Against Organised Crime</b>   |  |  |   |   |
| Joint Action of 21 December 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on making it a criminal offence to | <b><i>29 December 1998</i></b>                   | No report provided for under the Joint Action.   | Not applicable: there is no obligation to communicate national measures under the Joint Action. | Not known: no data available (no reports, no infringement procedures possible). |

<sup>58</sup> Other legislative instruments relevant to the fight against terrorism are examined in section 4.2 “Judicial cooperation in criminal matters” (such as the Framework Decision on terrorism and the European arrest warrant).

<sup>59</sup> OJ L 253, 29.9.2005, p. 22. Council Decision 2005/671/JHA repealed Council Decision 2003/48/JHA of 19 December 2002 on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Common Position 2001/931/CFSP (OJ L 16, 22.1.2003, p. 68).

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force  | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>  |  |
|---|---|--|---|--|
|   |   |  | Communication of national measures to the Commission  | Compliance/application                               |
| participate in a criminal organisation in the Member States of the European Union <sup>60</sup>   |   |  |   |  |
| <b>3.4. Police and customs cooperation</b>  |   |  |   |  |
| Convention of 18 December 1997 on Mutual Assistance and Cooperation between customs administrations: (Naples II-Convention) <sup>61</sup> | Subject to adoption by the Member States in accordance with their respective constitutional requirements. The Convention has been ratified by 23 Member States so far <sup>62</sup> | The Customs Cooperation Working Group agreed on a number of recommendations based on a comprehensive evaluation, setting out the main findings of the questionnaire. These are partly to | Not applicable: there is no obligation to communicate national measures under the Convention. | The Convention has still not been fully implemented. |

<sup>60</sup> OJ L 351, 29.12.1998, p. 1. On 19 January 2005 the Commission presented a proposal for a Council Framework Decision on the fight against organised crime [COM(2005) 6] aimed at repealing the Joint Action.

<sup>61</sup> OJ C 24, 23.1.1998, p. 1.

<sup>62</sup> Italy and Malta have not ratified so far.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force    | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>   |   |
|---|---|---|--|---|
|   |   |   | Communication of national measures to the Commission   | Compliance/application  |
|   | and is applicable to 19 of them <sup>63</sup> . | be implemented at national level and partly to be taken into account in the future work of the CCWG <sup>64</sup> .   |  |   |
| Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol <sup>65</sup> | <b>Implementation due by December 2005</b>      | A Commission report has been drafted on the basis of information provided by 17 Member States (Austria, Belgium, Czech Republic, Germany, Estonia, Spain, Finland, Italy, Lithuania, Luxembourg, Latvia, Netherlands, Poland, | Seven Member States have not yet fulfilled their communication obligation: <b>Denmark, France, Ireland, Sweden, Cyprus, Hungary and Malta.</b> | According to the Commission report, the general level of transposition is still incomplete and further efforts are required on the part of the Member States, but a majority have largely entered into the spirit of the Common Position, mainly by feeding the Interpol STD database <sup>67</sup> . |

<sup>63</sup> Austria, the Czech Republic, Germany, Denmark, Estonia, Spain, France, United Kingdom, Hungary, Ireland, Lithuania, Luxembourg, the Netherlands, Portugal, Sweden, Finland, Poland, Slovakia and Slovenia.

<sup>64</sup> Document 7863/05 LIMITE ENFOCUSTOM 21, dated 11 April 2005.

<sup>65</sup> Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol (OJ L 27, 29.1.2005, p. 61).

| Legal instrument <sup>1</sup> | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>                   |                        |
|-------------------------------|--|--|--|------------------------|
|                               |  |  | Communication of national measures to the Commission | Compliance/application |
|                               |  | Slovenia, Slovakia and the United Kingdom <sup>66</sup> and should be adopted in spring 2006. It should be followed by a Council report. |  |                        |

### 3.5. Management of crisis within the European Union

## 4. STRENGTHENING JUSTICE

### 4.2. Judicial cooperation in criminal matters

#### – Mutual recognition principle

|   |  |  |   |   |
|---|--|--|---|---|
| Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender | <b><i>Implementation due by 31 December 2003</i></b> | Reports from the Commission of 23 February 2005 <sup>69</sup> and of 24 January 2006 | At this stage, all the Member States have communicated their implementing measures. | In spite of an initial delay in transposition on the part of half of the Member States (only Belgium, Denmark, Spain, Cyprus, Lithuania, Hungary, Poland, Portugal, Slovenia, Finland |
|---|--|--|---|---|

<sup>66</sup> Greece sent its reply on 12 January 2006, too late to be taken into consideration in the report.

<sup>67</sup> According to November 2005 figures from Interpol, the number of data supplied from EU Member States to Interpol has risen from about 4.5 million to about 6.4 million.

| Legal instrument <sup>1</sup>                                 | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>                   |  |
|---|--|---|--|--|
|   |  |   | Communication of national measures to the Commission | Compliance/application   |
| procedures between Member States (2002/584/JHA) <sup>68</sup> |  | <p>(revised version concerning Italian legislation)<sup>70</sup>.</p> <p>A second report updating the first evaluation will be adopted in the 3rd quarter of 2006 in response to a request from the 2 June 2005 JHA Council.</p> <p>Further indications are given in the regular review of implementation of the Action Plan to</p> |  | <p>and the United Kingdom complied within the deadline), the European arrest warrant was operational throughout the Union at the time of the revised report from the Commission.</p> <p>According to the latest Commission report, efforts remain to be agreed on the part of certain Member States in order to comply fully with the Framework Decision, in particular by the <b>Czech Republic, Denmark, Estonia, Ireland, Italy, Luxembourg, Malta, Netherlands, Slovenia and the United Kingdom.</b></p> |

<sup>68</sup> OJ L 190, 18.7.2002, p. 1.

<sup>69</sup> Report from the Commission based on Article 34 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - COM(2005) 63 and SEC(2005) 267.

<sup>70</sup> Report from the Commission based on Article 34 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (revised version) - COM(2006) 8 and SEC(2006) 79.

<sup>71</sup> Latest version dated 9 December 2005, JAI 445, REV 1 ADD 1 REV 1.



| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |   |
|--|--|---|---|---|
|  |  |   | Communication of national measures to the Commission  | Compliance/application  |
|  |  | <p>combat terrorism<sup>71</sup>.</p> <p>Moreover, a new round of mutual evaluations (peer review) on practical implementation of the European arrest warrant, based on the Joint Action of 5 December 1997, was launched by the Council in 2005 and will be conducted in the 25 Member States from 2006 to 2009.</p> |   |   |
| Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European | <b>Implementation due by 2 August 2005</b>   | A report from the Commission is expected in 2006. The report from the   | <b>Belgium, Denmark Estonia, Greece, Spain, Ireland, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Portugal, Slovakia and the</b> | Since the date of implementation (2 August 2005), no information on legal transposition is available. Details will be given in the Commission's report, expected in 2006. |

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force   | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>  |   |
|---|--|--|---|---|
|   |  |  | Communication of national measures to the Commission  | Compliance/application  |
| Union of orders freezing property or evidence <sup>72</sup>   |  | Council, based on the Commission's report, is due by 2 August 2006.  | <b>United Kingdom</b> have not yet fulfilled their communication obligation.  |   |
| <b>– Approximation</b>  |  |  |   |   |
| Convention on the protection of the European Communities' financial interests (PFI) of 26 July 1995 <sup>73</sup> and its protocols <sup>74</sup> | The PFI Convention, the 1st Protocol and the ECJ Protocol entered into force on 17 October 2002 following ratification by the then 15 Member States. Ratification of | The Commission took the initiative of adopting a report, on 25 October 2004, on implementation by Member States of the Convention on the protection of the European Communities' financial interests | All 15 “old” EU Member States, together with Latvia, have fulfilled their obligation to transmit to the Commission, in accordance with Article 10 of the PFI Convention (as also referred to in Article 7(2) of the 1st Protocol and Article 12(1) of the 2nd Protocol), the texts of the provisions transposing into domestic law the obligations imposed on Member States under the PFI instruments by Member | The Commission report shows that, although the level of effective criminal-law protection of the EC's financial interests has increased, none of the EU-15 Member States under scrutiny appeared to have taken all the measures needed to comply fully with the PFI instruments. Gaps and loopholes in the law which allow offences to go unpunished remain possible. |

<sup>72</sup> OJ L 196, 2.8.2003, p. 45.

<sup>73</sup> OJ C 316, 27.11.1995, p. 49.

<sup>74</sup> Protocol to the Convention on the protection of the European Communities' financial interests of 27 September 1996 (OJ C 313, 23.10.1996, p. 2); protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests of 29 November 1996 (OJ C 151, 20.5.1997, p. 2); and second protocol to the Convention on the protection of the European Communities' financial interests of 19 June 1997 (OJ C 221, 19.7.1997, p. 12).

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force   | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>   |   |
|--|--|--|--|---|
|  |  |  | Communication of national measures to the Commission                               | Compliance/application  |
|  | the 2nd Protocol by Italy and Austria is still awaited <sup>75</sup> .                                   | and its protocols <sup>76</sup> .  | States.  |   |
| Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (2000/383/JHA) <sup>77</sup> | <b>Implementation due by 31 December 2000 (Article 5a) and 29 May 2001 (other Articles)<sup>78</sup></b> | Two Commission reports, dated 13 December 2001 <sup>79</sup> and 3 September 2003 <sup>80</sup> , served as a basis for the Council reports, the latest one being dated 25 | Now all the Member States have finally provided the information to the Commission. | According to the latest Commission report, legal implementation of the Framework Decision is still incomplete. When all the amendments still being drafted or adopted ( <b>Austria, France, Luxembourg, Portugal and Spain</b> ) enter into force, the Framework Decision will have been transposed in full into national law by all the Member States, |

<sup>75</sup> Luxembourg notified ratification of the second protocol on 13 July 2005.

<sup>76</sup> COM(2004) 709 and SEC(2004) 1299.

<sup>77</sup> OJ L 140, 14.6.2000, p. 1. Amended by the Council Framework Decision of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (2001/888/JAI) - OJ L 329, 14.12.2001, p. 3.

<sup>78</sup> 31 December 2002 for the Council Framework Decision of 6 December 2001.

<sup>79</sup> Report from the Commission based on Article 11 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro - COM(2001) 771, 13.12.2001 and SEC(2001) 1999.

<sup>80</sup> Second Commission report based on Article 11 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro - COM(2003) 532, 3.9.2003 and SEC(2003) 936. This report does not cover the new Article 9a of the Framework Decision on recognition of previous convictions, as inserted by Council Framework Decision 2001/888/JHA of 6 December 2001. The Member States had provided no data on this subject by the date of this report.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force  | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>   |   |
|--|---|---|--|---|
|  |   |   | Communication of national measures to the Commission   | Compliance/application  |
|  |   | October 2004 <sup>81</sup> .  |  | with the exception of at least one provision which does not seem to have been completely transposed by certain Member States. According to the Commission report, this concerns <b>Finland and Sweden</b> (Article 6(2)). Further clarification might also be needed on the full implementation of certain provisions, such as the liability of legal persons in the law of the <b>United Kingdom</b> . |
| Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings <sup>82</sup> | <b>Implementation due by 22 March 2002, 22 March 2004 (Articles 5 and 6) and 22 March 2006 (Article 10)</b> | The Commission's first report on implementation of all the Articles (except Articles 5, 6 and 10) was adopted on 16 February 2004 <sup>83</sup> . The Council | At the time of the Commission report (16 February 2004), only ten Member States (Austria, Belgium, Finland, Germany, Italy, Ireland, Luxembourg, Portugal, Spain and Sweden) had sent relatively full contributions.<br><br><b>Denmark, Greece, France, the Netherlands and the United Kingdom</b> | The Commission report shows that, because the Commission had received no or only incomplete contributions from the Member States, it had been able to acquire only a superficial impression of the state of transposition. Nevertheless, this superficial impression does make it possible to conclude that the current state of transposition is   |

<sup>81</sup> DROIPEN 25, rev.2.

<sup>82</sup> OJ L 82, 22.3.2001, p. 1.

<sup>83</sup> Report from the Commission on the basis of Article 18 of the Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings of 16 February 2004 - COM(2004) 54 final/2 and SEC(2004) 102.

| Legal instrument <sup>1</sup> | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>  |   |
|-------------------------------|--|--|---|---|
|                               |  |  | Communication of national measures to the Commission  | Compliance/application  |
|                               |  | <p>report, dated 24 February 2005<sup>84</sup>, endorses in substance the Commission's conclusions.</p> <p>A supplementary report was planned for new Member States.</p> <p>The second report (on the implementation of Articles 5 and 6), due in the last quarter of 2004, was not completed in time due to delays in answers from the Member States.</p> | <p>have not yet fulfilled their communication obligation.</p> <p>Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia and the Czech Republic have not yet been evaluated.</p> | <p>unsatisfactory.</p> <p>Despite the shortcomings it can be recognised that in certain Member States, such as France and Luxembourg, the transposition process is already in hand for some of the provisions which remain to be transposed. In addition, it must be acknowledged that some of the provisions set general aims leaving the Member States considerable room for manoeuvre. This makes it difficult for the Commission to check that the Framework Decision has been properly transposed.</p> |

<sup>84</sup>

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>   |  |
|---|--|--|--|--|
|   |  |  | Communication of national measures to the Commission   | Compliance/application   |
|   |  | <p>A third report on Article 10, for which the deadline for transposition is 22 March 2006, should be adopted at the beginning of 2007 at the latest.</p> <p>The Commission plans to present a single report combining these three reports due at the end of 2006.</p> |  |  |
| Council Framework Decision of 28 May 2001 on combating fraud and counterfeiting of non-cash | <b>Implementation due by 2 June 2003</b>     | The report from the Commission of 30 April 2004 <sup>86</sup> served as a basis for the  | At the date of adoption of the latest Commission report (20 February 2006), <b>Luxembourg, Greece<sup>89</sup>, Cyprus<sup>90</sup>, Estonia, Hungary, Malta</b> and | The second Commission report showed that most of the Member States which had communicated their national transposition measures to the Commission were complying |

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force  | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>   |   |
|---|---|---|--|---|
|   |   |   | Communication of national measures to the Commission   | Compliance/application  |
| means of payment (2001/413/JAI) <sup>85</sup>   |   | Council's report of 25 October 2004 <sup>87</sup> . The Commission adopted a second report on 20 February 2006 <sup>88</sup> .  | <b>Slovenia</b> <sup>91</sup> had not yet fully fulfilled their communication obligation.  | explicitly or, in some cases, implicitly with the Framework Decision.   |
| Council Framework Decision of 26 June 2001 relating to money laundering, the identification, tracing, freezing or seizing and confiscation of the instrumentalities and | <b>Implementation due by 31 December 2002</b> | The report from the Commission of 5 April 2004 <sup>93</sup> served as a basis for the report from the Council dated 25 October 2004 <sup>94</sup> .<br><br>A second report was | At the date of adoption of the Commission's second report (21 February 2006), all EU Member States had communicated their transposition measures, with the exception of <b>Malta</b> .<br><br>The information provided by <b>Greece</b> is still incomplete. | The latest Commission report showed that overall transposition is satisfactory in the 24 Member States assessed.<br><br>Nevertheless, no further information gave any reason to revise the unfavourable assessment in the first report concerning <b>Luxembourg</b> and <b>Greece</b> . |

<sup>85</sup> OJ L 149, 2.6.2001, p. 1.

<sup>86</sup> COM(2004) 346 and SEC(2004) 532.

<sup>87</sup> DROIPEN 38, rev.2.

<sup>88</sup> COM(2006) 65 and SEC(2006) 188.

<sup>89</sup> Greece and Luxembourg reported that their transposition legislation is before their Parliament.

<sup>90</sup> Cyprus has not given the Commission adequate information for a full evaluation of the conformity of its legislation with the Framework Decision.

<sup>91</sup> Estonia, Hungary, Malta and Slovenia have not replied to the Commission.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force  | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>   |   |
|--|---|--|--|---|
|  |   |  | Communication of national measures to the Commission   | Compliance/application  |
| proceeds from crime (2001/500/JAI) <sup>92</sup>   |   | released on 21 February 2006 <sup>95</sup> . It focused on transposition in the 10 new EU Member States.<br><br>Further details are given in the regular review of implementation of the Action Plan to combat terrorism <sup>96</sup> . |  | Minor flaws also seem to exist in Austria, Hungary and Latvia.  |
| Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JAI) <sup>97</sup> | <b>Implementation due by 31 December 2002</b> | The first report from the Commission of 8 June 2004 <sup>98</sup> served as a basis for the  | At the current stage, all the EU-15 Member States have communicated their transposition measures <sup>101</sup> , plus 5 "new" Member States (Latvia, Estonia, Poland, | The Commission's second report stated that the situation was unsatisfactory from the point of view both of implementation (at the time the report was drafted the information |

<sup>92</sup> OJ L 182, 5.7.2001, p. 1.

<sup>93</sup> COM(2004) 230 and SEC(2004) 383.

<sup>94</sup> DROIPEN 24, REV 2.

<sup>95</sup> COM(2006) 72 and SEC(2006) 219.

<sup>96</sup> Latest version dated 9 December 2005, JAI 445, REV 1 ADD 1 REV 1.

<sup>97</sup> OJ L 164, 22.6.2002, p. 3.



| Legal instrument <sup>1</sup> | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>   |  |
|-------------------------------|--|--|--|--|
|                               |  |  | Communication of national measures to the Commission   | Compliance/application   |
|                               |  | <p>Council's report dated 25 October 2004<sup>99</sup>.</p> <p>Adoption of a second report was due in the 4th quarter of 2005, but had to be postponed for lack of information and legislative texts from Member States.</p> <p>Further details are given in the regular review of</p> | <p>Slovakia and Lithuania).</p> <p><b>Cyprus, Hungary<sup>102</sup>, Malta<sup>103</sup>, the Czech Republic and Slovenia</b> have not yet fulfilled their communication obligation.</p> | <p>provided did not allow the Commission to conclude that any Member State had fully transposed the Framework Decision and there still were big gaps, as explained in the Commission's report and annex) and of the timeliness and completeness of the information provided by Member States, on which the conclusions were based.</p> |

<sup>98</sup> Report from the Commission based on Article 11 of the Council Framework Decision of 13 June 2002 on combating terrorism: COM(2004) 409, 8.6.2004 and SEC(2004) 688.

<sup>99</sup> DROIPEN 40, rev.2.

<sup>100</sup> Latest version dated 9 December 2005, JAI 445, REV 1 ADD 1 REV 1.

<sup>101</sup> Which marks progress since the Commission's second report, as by the cut-off date of 15 February 2004 the Commission had received no information from **Luxembourg** and the **Netherlands** and no specific information from **Greece**.

<sup>102</sup> Although Hungary indicated that it had adopted national measures as at 9 December 2005 (JAI 445 REV 1 ADD 1 REV 1).

<sup>103</sup> Although Malta indicated that it had adopted national measures as at 9 December 2005 (JAI 445 REV 1 ADD 1 REV 1).

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>   |   |
|---|--|---|--|---|
|   |  |   | Communication of national measures to the Commission   | Compliance/application  |
|   |  | implementation of the Action Plan to combat terrorism <sup>100</sup> .  |  |   |
| Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA) <sup>104</sup>         | <b>Implementation due by 1 August 2004</b>   | A report from the Commission is being prepared and should be adopted by spring 2006. The report from the Council, based on the Commission's report, was due on 1 August 2005. | <b>Luxembourg<sup>105</sup>, Portugal and Ireland</b> have not yet fulfilled their communication obligation.           | Subject to the missing notifications from three Member States, preparatory work on the forthcoming Commission report suggests that the general level of implementation is quite satisfactory, although some improvements are still needed on some provisions. |
| Council Framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of | <b>Implementation due by 5 December 2004</b> | A report from the Commission is being prepared and should be adopted by mid-2006. The Council's   | <b>Greece, Ireland, Luxembourg, the Netherlands and Austria</b> have not yet fulfilled their communication obligation. | Since the date of implementation (5 December 2004), no information on legal transposition is available. Details will be given in the Commission's report, due in mid-2006.  |

<sup>104</sup> OJ L 203, 1.8.2002, p. 1.

<sup>105</sup> Luxembourg stated that it was awaiting finalisation of the discussion within the Council of Europe before implementing the Framework Decision.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>   |   |
|--|--|---|--|---|
|  |  |   | Communication of national measures to the Commission   | Compliance/application  |
| unauthorised entry, transit and residence <sup>106</sup>   |  | assessment of implementation, based on the Commission's report, was due on 15 June 2005.  |  |   |
| Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector <sup>107</sup> | <b>Implementation due by 22 July 2005</b>    | A report from the Commission is due in the first half of 2006. The report from the Council, to be based on the Commission's report, was due by 22 October 2005. | <b>Greece, Spain, Cyprus, Hungary and Malta</b> have not yet fulfilled their communication obligation <sup>108</sup> . | Since the date of implementation (22 July 2005), no information on legal transposition is available. Details will be given in the Commission's report, due to be adopted in the first half of 2006. |
| Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual                                   | <b>Implementation due by 20 January 2006</b> | A report from the Commission is expected in 2006. The report from the   | So far Austria, Belgium, Denmark, the Netherlands and Spain have sent relevant information to the Commission.          | Since the date of implementation (20 January 2006), no information on legal transposition is available. Details will be given in the  |

<sup>106</sup> OJ L 328, 5.12.2002, p. 1.

<sup>107</sup> OJ L 192, 31.7.2003, p. 54.

<sup>108</sup> Although Greece and Spain have indicated that legislation is being prepared.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |  |
|--|--|---|---|--|
|  |  |   | Communication of national measures to the Commission  | Compliance/application   |
| exploitation of children and child pornography <sup>109</sup>  |  | Council, based on the Commission's report, is due by 20 January 2008.   | <b>Germany, Greece, France, Ireland, Italy, Luxembourg, Portugal, Finland, Sweden, the United Kingdom, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Czech Republic, Slovakia and Slovenia</b> have not yet fulfilled their communication obligation. | Commission's report, expected in 2006.   |
| Council Framework Decision 2004/757/JAI of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking <sup>110</sup> | <b>Implementation due by 12 May 2006</b>     | A report from the Commission is due by 12 May 2009, which should serve as a basis for the report from the Council, due by 12 November 2009. | Not applicable: the date of implementation has not yet expired. The Commission has received no information so far.  | Not yet known: the date of implementation had not yet expired at the time of drafting this table and no information is available so far. |
| <b>– Other instruments in the field of judicial cooperation in criminal matters</b>  |  |   |   |  |
| Council Framework Decision 2002/465/JHA of   | <b>Implementation due by 1</b>               | The Commission adopted a report on 7  | <b>Greece<sup>114</sup>, Italy<sup>115</sup>, Luxembourg<sup>116</sup>, Estonia and Slovenia</b> have not yet   | Legal implementation of the Framework Decision is very unsatisfactory.   |

<sup>109</sup> OJ L 13, 20.1.2004, p. 44.

<sup>110</sup> OJ L 335, 11.11.2004, p. 8.

| Legal instrument <sup>1</sup>                            | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>   | Current state of play <sup>3</sup>                   |  |
|--|--|--|--|--|
|  |  |  | Communication of national measures to the Commission | Compliance/application   |
| 13 June 2002 on joint investigation teams <sup>111</sup> | <b>January 2003</b>                          | January 2005 <sup>112</sup> , which should serve as a basis for the Council's report.<br><br>Further details are given in the regular review of implementation of the Action Plan to combat terrorism <sup>113</sup> . | fulfilled their communication obligation.            | At the date of adoption of the Commission's report, Spain was the only Member State fully complying: <b>Belgium, Denmark, Germany, Greece, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden, the United Kingdom, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Czech Republic, Slovakia and Slovenia</b> have not yet complied correctly with their transposition obligation and/or have not correctly applied the transposing legislation. |

<sup>111</sup> OJ L 162, 20.6.2002, p. 1.

<sup>112</sup> Report from the Commission on national measures taken to comply with the Council Framework Decision of 13 June 2002 on Joint Investigation Teams: COM(2004) 858, 7.1.2005 and SEC(2004) 1725 – mentioned in OJ C 64, 16.3.2005.

<sup>113</sup> Latest version dated 9 December 2005, JAI 445, REV 1 ADD 1 REV 1.

<sup>114</sup> As at 9 December 2005 Greece indicated that an *ad hoc* committee of the Ministry of Justice had drafted laws to implement the Framework Decision on Joint Investigation Teams, the Eurojust Decision, the 2000 Mutual Legal Assistance Convention and the 2001 Protocol thereto as well as the Framework Decision on freezing orders. They were about to be submitted to Parliament.

<sup>115</sup> As at 9 December 2005 Italy indicated that its draft legislation to implement the Framework Decision on Joint Investigation Teams was pending before its Parliament.

<sup>116</sup> As at 9 December 2005 Luxembourg indicated that its draft legislation to implement the Framework Decision on Joint Investigation Teams was pending before its Parliament.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force                               | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |  |
|---|--|---|---|--|
|   |  |   | Communication of national measures to the Commission  | Compliance/application   |
| <b>– Eurojust</b>   |  |   |   |  |
| Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA) <sup>117</sup> | <b><i>Implementation and communication are due by 6 September 2003</i></b> | <p>A report from the Commission, although not provided for under the Decision, was adopted on 6 July 2004<sup>118</sup>.</p> <p>A second report from the Commission is due in the course of 2006.</p> <p>Further details are given in the regular review of implementation of</p> | Not applicable: there is no obligation to communicate national measures under the Decision. | <p>The Commission's report states that, at the cut-off date of 31 March 2004 chosen for this report, the level of implementation of the Eurojust Decision was far from satisfactory.</p> <p>Six Member States had none of the implementing legislation necessary under their national law (Belgium, Greece, Spain, Italy, Luxembourg and Finland).</p> <p>The remaining Member States concluded that they did not need to amend their national law.</p> <p>Nevertheless, all the Member States reported that, as at 31 March 2006, they had enacted legislation or, in their view, were complying with the Decision, except <b>Cyprus, Spain</b><sup>120</sup></p> |

<sup>117</sup> OJ L 63, 6.3.2002, p. 1.

<sup>118</sup> Report from the Commission on the Legal Transposition of the Council Decision of 28 February 2002 setting up Eurojust with a view to Reinforcing the Fight Against Serious Crime: COM(2004) 457 and SEC(2004) 884 – mentioned in OJ C 313, 18.12.2004.

| Legal instrument <sup>1</sup> | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>                   |                             |
|-------------------------------|--|---|--|-----------------------------|
|                               |  |   | Communication of national measures to the Commission | Compliance/application      |
|                               |  | <p>the Action Plan to combat terrorism<sup>119</sup>.</p> <p>Pending the entry into force of a new Treaty provision on Eurojust, as provided for by the Constitution, the Commission wishes to put forward further thoughts on the possible development of Eurojust and the European Judicial Network (EJN) in criminal matters. A Communication is</p> |  | and Greece <sup>121</sup> . |

<sup>119</sup> Latest version dated 9 December 2005, JAI 445, REV 1 ADD 1 REV 1.

<sup>120</sup> In Spain draft legislation to implement the Eurojust Decision has been submitted to Parliament.

<sup>121</sup> As at 9 December 2005 Greece indicated that an *ad hoc* committee of the Ministry of Justice had drafted laws to implement the Framework Decision on Joint Investigation Teams, the Eurojust Decision, the 2000 Mutual Legal Assistance Convention and the 2001 Protocol thereto as well as the Framework Decision on freezing orders. They were about to be submitted to the Greek Parliament.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force  | Reports and other in-depth analysis <sup>2</sup>                   | Current state of play <sup>3</sup>  |   |
|---|---|--|---|---|
|   |   |  | Communication of national measures to the Commission  | Compliance/application  |
|   |   | therefore planned in the 4th quarter of 2006.                      |   |   |
| <b>4.3. Judicial cooperation in civil matters</b>   |   |  |   |   |
| – <b>Mutual recognition of decisions and elimination of obstacles to the proper functioning of proceedings</b>  |   |  |   |   |
| Council Directive 2003/8 of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes <sup>122</sup> | <b>Implementation due by 30 November 2004 (all Articles except Article 3(2)(a)) or by no later than 30 May 2006 (Article 3(2)(a))</b> | No report from the Commission is provided for under the Directive. | All the Member States have communicated their implementing measures, with the exception of <b>Belgium</b> . | So far, no cases of non-compliance or incorrect application have been detected. |
| Council Directive 2004/80 of 29 April 2004 relating to  | <b>Implementation due by 1</b>  | A report from the Commission is due                                | <b>Greece, Italy, Latvia and Malta</b> have not yet notified their national                                 | So far, no cases of non-compliance or incorrect application have been detected. |

<sup>122</sup> OJ L 26, 31.1.2003, p. 41.



| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force  | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>                   |  |
|--|---|---|--|--|
|  |   |   | Communication of national measures to the Commission | Compliance/application   |
| compensation to crime victims <sup>123</sup>   | <b>January 2006</b>   | by 1 January 2009 under the Directive.  | implementing measures.                               | Details will be given in the Commission's report, expected in 2009.  |
| Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters <sup>124</sup> | <b>Entry into force: 1 July 2001. Application from 1 January 2004, except for Articles 19, 21 and 22, which will apply from 1 July 2001</b> | First five-yearly report is due from the Commission by 1 January 2007.<br><br>A study on application of this Regulation will be launched in 2006. | Not applicable.                                      | The first evaluation exercise will be launched in 2007.  |
| Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments  | <b>Entry into force on 1 March 2002</b>   | A report from the Commission is due five years after the entry into force of this Regulation, i.e. in 2007.                                       | Not applicable.                                      | This Regulation reformatted and updated the 1968 Brussels Convention in a Community instrument: after years of application of this Convention, and subject to the results of the study expected in 2006, the general level of application of the Regulation can be |

<sup>123</sup> OJ L 261, 6.8.2004, p. 15.

<sup>124</sup> OJ L 174, 27.6.2001, p. 1.

| Legal instrument <sup>1</sup>   | Deadline for implementation/entry into force | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>  |  |
|---|--|---|---|--|
|   |  |   | Communication of national measures to the Commission                                | Compliance/application   |
| in civil and commercial matters <sup>125</sup>  |  | An evaluation of application of Regulation 44/2001 was launched in 2005. It is expected to be delivered in 2006.                            |   | considered satisfactory.   |
| Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters <sup>126</sup> | <b>Entry into force on 31 May 2001</b>       | The first five-yearly report from the Commission was adopted on 1 October 2004 <sup>127</sup> .<br><br>A second report is expected in 2008. | Not applicable.   | The Commission's report shows that application is satisfactory as the Regulation has generally improved and expedited the transmission and service of documents between Member States. |
| Council Regulation (EC) No 2201/2003 of 27  | Entry into force on 1 March                  | No later than 1 January 2012, and   | Cyprus has not yet fulfilled its obligation to communicate the information required | One year after the entry into force of the Regulation, it is too early to evaluate its   |

<sup>125</sup> OJ L 12, 16.1.2001, p. 1.

<sup>126</sup> OJ L 160, 30.6.2000, p. 37. On 7 July 2005 the Commission adopted a proposal to improve the current provisions on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. The purpose of these amendments is to speed up and streamline the procedures - COM(2005) 305.

<sup>127</sup> COM(2004) 603 and SEC(2004) 1145.

| Legal instrument <sup>1</sup>  | Deadline for implementation/entry into force   | Reports and other in-depth analysis <sup>2</sup>  | Current state of play <sup>3</sup>   |   |
|--|--|---|--|---|
|  |  |   | Communication of national measures to the Commission   | Compliance/application  |
| November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 ("Brussels II bis Regulation") <sup>128</sup> | 2005, with the exception of Articles 67, 68, 69 and 70, which will apply from 1 August 2004. | every five years thereafter, the Commission will present a report on application of the Regulation. | by the Regulation concerning central authorities and competent courts.<br><br>Cyprus was sent a letter of formal notice on 19 December 2005. | application. However, it seems necessary to improve knowledge of the instrument and training for practitioners and central authorities <sup>129</sup> . |

<sup>128</sup> OJ L 338, 23.12.2003, p. 1.

<sup>129</sup> For this purpose, in 2005 the Commission published a practical guide to application of the Brussels II bis Regulation.